

## SCHEDULE

### SHERIFF COURT ADOPTION RULES 2009

## CHAPTER 1

### GENERAL

#### **Citation and interpretation**

1.—(1) These Rules may be cited as the Sheriff Court Adoption Rules 2009.

(2) In these Rules—

“the 1995 Act” means the Children (Scotland) Act 1995(1);

“the 2002 Act” means the Adoption and Children Act 2002(2);

“the 2007 Act” means the Adoption and Children (Scotland) Act 2007;

“the 2009 Regulations” means the Adoptions with a Foreign Element (Scotland) Regulations 2009(3);

“adoption agency” means—

(a) a local authority;

(b) a registered adoption service within the meaning of section 2(3) of the 2007 Act;

(c) an adoption agency within the meaning of section 2(1) of the 2002 Act (adoption agencies in England and Wales); or

(d) an adoption agency within the meaning of article 3 of the Adoption (Northern Ireland) Order 1987(4);

“Her Majesty’s Forces” means the regular forces as defined in section 374 of the Armed Forces Act 2006(5);

“Ordinary Cause Rules” means the first Schedule to the Sheriff Courts (Scotland) Act 1907;

“Principal Reporter” has the same meaning as in section 93(1) of the 1995 Act;

“Registrar General” means the Registrar General of Births, Deaths and Marriages for Scotland.

(3) Any reference to a specified Chapter or rule shall be construed as a reference to the Chapter or rule bearing that number in these Rules, and a reference to a specified paragraph or subparagraph shall be construed as a reference to the paragraph or subparagraph so numbered or lettered in the provision in which that reference occurs.

(4) A form referred to by number means the form so numbered in the Appendix to these Rules or a form substantially to the same effect with such variation as circumstances may require.

#### **Expenses**

2. The sheriff may—

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(1) 1995 c.36.  
(2) 2002 c.38.  
(3) S.S.I. 2009/182.  
(4) S.I. 1987/203.  
(5) 2006 c.52.

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- (a) make such order as he thinks fit with regard to the expenses of an application under these Rules, including the expenses of a reporting officer and a curator *ad litem* or any other person who attended a hearing; and
- (b) modify such expenses or direct them to be taxed on such scale as he may determine.

### **Intimation to Principal Reporter**

3. Where in any proceedings referred to in section 54(2)(c) or (ca) of the 1995 Act a matter is referred by the sheriff to the Principal Reporter under that section—

- (a) the interlocutor making the reference must specify which of the conditions in paragraph (2) (a) to (h), (j), (k), (l) or (m) of section 52 of the 1995 Act it appears to the sheriff has been satisfied; and
- (b) the sheriff clerk must intimate that interlocutor forthwith to the Principal Reporter.

### **Power of sheriff to make orders etc.**

4.—(1) The sheriff may make such order as he thinks fit for the expeditious progress of an application under the 2007 Act, including an application for a Convention adoption order, in so far as it is not inconsistent with the provisions of these Rules.

(2) The sheriff may relieve a party from the consequences of failure to comply with a provision in these Rules which is shown to be due to mistake, oversight or other excusable cause, on such conditions as he thinks fit.

(3) Where the sheriff relieves a party from the consequences of a failure to comply with a provision in these Rules under paragraph (2), he may make such order as he thinks fit to enable the cause to proceed as if the failure to comply with the provision had not occurred.

### **Vulnerable witnesses**

5.—(1) At any hearing on an application under these Rules, the sheriff shall ascertain whether there is likely to be a vulnerable witness who is to give evidence at or for the purposes of any proof or hearing, consider any child witness notice or vulnerable witness application that has been lodged where no order has been made under section 12(1) or (6) of the Vulnerable Witnesses (Scotland) Act 2004<sup>(6)</sup> and consider whether any order under section 12(1) of that Act requires to be made.

(2) Except where the sheriff otherwise directs, where a vulnerable witness is to give evidence at or for the purposes of any proof or hearing in an application under these Rules, any application in relation to the vulnerable witness or special measure that may be ordered shall be dealt with in accordance with the rules within Chapter 45 of the Ordinary Cause Rules.

(3) In this rule “vulnerable witness” means a witness within the meaning of section 11(1) of the Vulnerable Witnesses (Scotland) Act 2004.

### **Service of documents**

6. Rules 5.2(4) to (6), 5.3 to 5.6 and 5.10 of the Ordinary Cause Rules are to apply, with any necessary modifications, to the service or intimation of any document under these Rules as they apply to the service or intimation of any document under the Ordinary Cause Rules.

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(6) 2004 asp 3.

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## **Appeals**

7. Chapter 31 of the Ordinary Cause Rules is to apply, with any necessary modifications, to an appeal against an order of the sheriff under these Rules as it applies to an appeal against an order of the sheriff under the Ordinary Cause Rules.